

Introduction

1. The Applicant contested before the Joint Appeals Board (“JAB”) in New York the failure to recognize her contribution to a study on poverty published by the Economic Community of West African States (“ECOWAS”) and to select her for a P-4 post advertised in vacancy notice STT-DESA-413905-R-New York and

collaborated in its publication. The preface of the document listed the names of the primary authors, including some members of the Statistics Division. The Applicant's name was not mentioned.

6. On 16 August 2007, Vacancy Announcement No. STT-DESA-413905-R-New York for the post of Statistician at the P-4 level in the Statistics Division of DESA was posted on the Galaxy online jobsite. On 14 October 2007, the Applicant applied for the post. Five candidates, including the Applicant, were

regard to statistics. The Section Chief's claim that the selections were based on professional criteria was untenable;

e. Her applications had not been given fair consideration. The interview panel for the post advertised in Vacancy Announcement No. STT-DESA-413905-R-New York comprised her Section Chief—a German national—and the DESA Executive Officer—an Italian national—while the panel for the temporary post comprised the two people mentioned above and a staff member from a German-speaking country;

f. The work that she had carried out and her qualifications demonstrated that she had all the competencies required for the disputed posts;

g. The Applicant's Section Chief explained to her verbally in 2005 that the criteria followed by the panel during the interviews were not based solely on competencies and that some posts were reserved for staff members from particular countries. The Section Chief had admitted to her that his choice was entirely discretionary and she reported this to the Director of the Statistics Division, who, rather than investigating the matter, had engaged in retaliatory actions against her;

h. It had been decided after the ECOWAS study was completed that she would be promoted to the P-4 level. However, while she was on mission in Abuja in February-March 2006, she was transferred to the Demographic and Social Statistics Branch, but without a promotion. A German national with less experience than her was selected for the post advertised in Vacancy Announcement No. STT-DESA-413905-R based on racial criteria. The assertion that that candidate met all of the requirements for the post is completely false;

i. With regard to her contribution to the ECOWAS Poverty Profile, she was involved in that project from November 2003 to June 2006. In stating that her contribution was less significant than she claims, the Director of the Division was mistaken as to the period during which she

worked on the study. Some of her supervisors colluded to deny her due credit for her role in the project.

19. The Respondent's contentions are:

a. In accordance with the Charter of the United Nations and with chapter IV of the Staff Regulations in force at the time, the power of appointment of staff members rests with the Secretary-General. However, his discretion is limited by the obligation to appoint the most qualified staff and to respect the selection processes. It is not for the JAB nor the Tribunal to substitute their assessment of staff members' qualifications for that of the Secretary-General;

b. If the Applicant contends that the selection processes were tainted by prejudice against her, she must provide supporting evidence. Yet, the documents submitted show that the selection processes were conducted in accordance with section 7 of administrative instruction ST/AI/2006/3 on the staff selection system and that the Applicant's competencies were evaluated on the basis of interviews. This selection process was validated by the Central Review Committee;

c. In the case of the post advertised in Vacancy Announcement No. STT-DESA-413905-R, the Applicant's experience and qualifications did not a

23. First, a ruling must be made on the receivability of the application, and particularly on the competence of the Tribunal to adjudicate such a dispute. It is not contested by the parties that the Applicant, who was employed with the United Nations Secretariat and worked in DESA, was involved at least from 2005 in drafting the aforementioned study at the behest of her supervisors and under the supervision of ECOWAS and that, in November 2007, the study was published by the Secretariat of ECOWAS. It contained a preface signed by both by the DESA Director and the President of the ECOWAS Commission, as well as a list of people who had participated in the drafting of the study, which did not include the Applicant's name.

24. Given that, according to its Statute, the Tribunal is competent to pass judgment on the legality of a decision taken by DESA but is not competent to pass judgment on the legality of a decision taken by ECOWAS, it is important to determine which organization took the decision not to include the Applicant's name.

25. All of the case file documents, particularly a letter dated 11 February 2010 from the Head of the Statistics Service in the ECOWAS Secretariat, who acknowledges having participated in the publication of the said study, show that the study is an ECOWAS publication as indicated by its title and logo, for which it holds the copyright, and that the final list of the people who participated in its drafting was drawn up by the President of the ECOWAS Commission. It follows that the decision contested by the Applicant was not taken by DESA. The Tribunal is, therefore, not competent to assess the legality of the decision. Thus, the application must be rejected insofar as it concerns the failure to acknowledge the Applicant's contribution to the study on poverty.

26. Second, the Applicant contests the decisions not to select her for either the P-4 post advertised in vacancy announcement STT-DESA-413905-R-New York, or the temporary P-4 post, both in the Statistics Division of DESA.

27. Since the Applicant failed to provide a specific argument for each decision but made the same arguments for both of them, and since she did not argue that

there were separate irregularities for each selection process, the Tribunal will consider all of the Applicant's arguments together.

28. The only argument presented by the Applicant in support of the contention that the decisions not to select her were unlawful is that she was harassed and discriminated against by her supervisors.

29.

submissions, provided the Tribunal with information demonstrating that there is no discrimination against staff members of African descent in that Department.

32. Thus, it follows from the above that the Applicant has failed to establish that the selection processes for the contested posts were flawed.

Conclusion

33. In view of the foregoing, the Tribunal DECIDES:

The application is rejected.

(Signed)

Judge Jean-François Cousin

Dated this 4th day of May 2012

Entered in the Register on this 4th day of May 2012

(Signed)

René M. Vargas M., Registrar, Geneva